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Docket 1658(EDillon)

In the United States Patent and Trademark Office



In re Application of: Link, James B.

Serial No.: 10/814,893

Group Art Unit: 3635

Filed: 03/31/2004

Examiner: Chapman, Jeanette E.

For: RETAINING WALL BLOCK

Certificate of Mail or Transmission

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the addressee herein, on the date indicated below:

DATE OF DEPOSIT: 07/29/2005 By: Amyville Jackson Jr.

Commissioner for Patents
Attn: Technology Center 3600
P.O. Box 1450
Alexandria, VA 22313-1450

July 25, 2005

Renewed Petition to Make Special

Sir:

This is in response to the letter mailed 7/12/05 indicating the dismissal of the petition to make special. It is assumed that the credit card form sent with the original petition is satisfactory for this renewed petition.

Applicant hereby requests that the subject patent application be made special.

Attached hereto are:

- A. Statement that applicants are willing to elect without traverse
- B. Presentation of all claims directed to the invention.
- C. A statement that a pre-examination search was made.
- D. One copy of each of the references deemed most closely related to the subject matter.
- E. A detailed discussion of the references which points out how the claimed subject matter is patentable over the references.

A. Statement Regarding Claims Directed to a Single Invention:

Please be advised that Applicants are willing to elect without traverse should a restriction or election be required concerning the claims of the invention.

B. Presentation of Claims Directed to the Invention:

1. A retaining wall block comprising:

a body having a front, rear, bottom, top, and side surfaces;

a central cavity extending vertically through said body and defining front, rear, and side walls, said walls having inner surfaces;

a front corner at the intersection of each of said side walls and said front wall;

said side walls diverging rearwardly from said front corner of said block;

a stabilizing wing extending outwardly from each of said side walls adjacent said rear surface;

each of said wings extending substantially less than a plane tangent to said front corner and perpendicular to said front surface;

two positioning wedges extending from said bottom surface, said positioning wedges including flat forward surfaces; and

said flat forward surface of said positioning wedge being located nearer said front surface than is said inner surface of said front wall;

whereby a plurality of said blocks are formed into a retaining wall by placing a lower tier of blocks with said blocks in said lower tier in contact at said front corners and

forming an upper tier of blocks by placing said flat forward surfaces of said positioning wedges of said blocks of said upper tier in engagement with said inner surface of said front wall of one or more of said blocks in said lower tier.

2. The retaining wall block of claim 1 wherein said positioning wedges extend laterally from said side interior wall of said block to said side surface of said block.

3. The retaining wall block of claim 2 wherein said positioning wedges include an interior side wall portion coplanar with said inner surface of said side wall of said block and an exterior side wall portion coplanar with said side surface of said block.

4. The retaining wall block of claim 3 wherein said positioning wedges are substantially rectangular shaped.

5. The retaining wall block of claim 1 which includes channels on said top surface extending a first depth into each of said side walls.

6. The retaining wall block of claim 5 wherein said channels include flat forward edges coplanar with said front inner wall surface.

7. The retaining wall block of claim 6 wherein said channels extending said first depth accommodate said positioning wedges of said blocks in said upper tier of blocks.

8. The retaining wall block of claim 6 wherein said flat forward surface of said positioning wedges are positioned nearer said front surface of said block than said flat forward edge of said channel and said front interior wall surface thereby positioning said front surface in said upper tier of blocks a first distance behind said front surface of said lower tier of blocks.

9. The retaining wall block of claim 8 wherein said front surface of said block includes a vertical portion extending from said bottom surface and a beveled portion extending from said vertical portion to said top surface.

10. The retaining wall block of claim 9 wherein said beveled portion extends laterally to said vertical portion by a second distance thereby enabling said blocks in said tiers of blocks to present a forward wall face including a series of vertical and beveled surfaces.

11. The retaining wall block of claim 1 wherein said side walls diverge rearwardly from said front surface at an angle of 20 degrees or greater from perpendicular with said front surface.

12. The retaining wall block of claim 1 wherein said side walls diverge rearwardly from said front surface at an angle of 27 degrees from perpendicular with said front surface.

13. The retaining wall block of claim 1 further wherein said wings have rear surfaces coplanar with said rear surface of said block.

14. The retaining wall block of claim 5 wherein said channels of said lower tier of blocks are oriented in such a manner to accept said positioning wedges on said bottom surface of said upper tier of blocks.

15. The retaining wall block of claim 1 wherein said series of blocks in each of said tiers are stacked in a straight line to form a straight retaining wall.

16. The retaining wall block of claim 15 wherein said channels in said top surface of a lower tier of blocks in said straight retaining wall provide openings for passage of said positioning wedges in said bottom surface of an upper tier of blocks when a block of said upper tier of blocks is slidingly moved with respect to said lower tier of blocks.

17. The retaining wall block of claim 8 wherein said first distance is 0.75 inch thereby creating a setback between successive tiers of blocks.

18. The retaining wall block of claim 17 wherein the setback vertically across the face of said retaining wall is 6 degrees.

C. Statement that a Pre-Examination Search was Made:

Applicant has made a pre-examination search of the subject matter. The field of search included: U.S. Classifications 52/604, 52/603, 52/596, 52/592.6, 52/604-609, and 405/284.

D. Copy of References:

One copy is attached of each of the references deemed most closely related to the subject matter encompassed by the claims.

A copy is attached at the end of this petition of each of the following references:

1. U.S. Patent 5,505,034
2. U.S. Patent 5,941,042
3. U.S. Patent 4,909,010
4. U.S. Patent 5,161,918
5. U.S. Patent 5,294,216
6. U.S. Patent 5,484,236

E. Detailed Discussion of the References:

Please note that, for each of the references analyzed below, an element-by-element claim chart is included showing the pertinent elements in comparison to the cited reference. Each element has been assigned a letter. A remarks section follows each Table.

For analysis purposes, Claim 1 includes the following elements:

- A. A retaining wall block comprising a body having a front, rear, bottom, top, and side surfaces;
- B. a central cavity extending vertically through said body and defining front, rear, and side walls, said walls having inner surfaces;
- C. a front corner at the intersection of each of said side walls and said front wall;
- D. said side walls diverging rearwardly from said front corner of said block;
- E. a stabilizing wing extending outwardly from each of said side walls adjacent said rear surface;
- F. each of said wings extending substantially less than a plane tangent to said front corner and perpendicular to said front surface;

G. two positioning wedges extending from said bottom surface, said positioning wedges including flat forward surfaces; and

H. said flat forward surface of said positioning wedge being located nearer said front surface than is said inner surface of said front wall;

I. whereby a plurality of said blocks are formed into a retaining wall by placing a lower tier of blocks with said blocks in said lower tier in contact at said front corners and forming an upper tier of blocks by placing said flat forward surfaces of said positioning wedges of said blocks of said upper tier in engagement with said inner surface of said front wall of one or more of said blocks in said lower tier.

1A. U.S. Patent 5,505,034 - Element-by-Element Analysis:**Table 1 – Element-by-Element Claim Analysis of Claim 1 in view of Dueck ‘034:**

Claim 1 Elements:	U. S. Patent 5,505,034 (Dueck ‘034)
F. each of said wings extending substantially less than a plane tangent to said front corner and perpendicular to said front surface;	Dueck’s frangible extensions 28 do not extend substantially less than a plane tangent to the front corner and perpendicular to the front surface (see Fig. 1). The frangible extensions appear to extend as far as (Fig. 1) or just slightly less (Fig. 3) than the plane tangent to the front corner and perpendicular to the front surface.
G. two positioning wedges extending from said bottom surface, said positioning wedges including flat forward surfaces; and	There are no positioning wedges including flat forward faces. Dueck discloses “both embodiments of the block are provided with projecting means in the form of a pair of spaced, cylindrical extensions or knobs 18” (Col. 3, lines 6-8 and Figs. 1 and 3).
H. said flat forward surface of said positioning wedge being located nearer said front surface than is said inner surface of said front wall;	Dueck discloses cylindrical knobs 18, there are therefore no flat surfaces on Dueck’s positioning knobs.
I. whereby a plurality of said blocks are formed into a retaining wall by placing a lower tier of blocks with said blocks in said lower tier in contact at said front corners and forming an upper tier of blocks by placing said flat forward surfaces of said positioning wedges of said blocks of said upper tier in engagement with said inner surface of said front wall of one or more of said blocks in said lower tier.	There are no flat forward surfaces on Dueck’s knobs 18. A retaining wall can therefore not be formed using Dueck’s blocks by placing flat forward surfaces of the positioning knobs against the inner surface of the blocks in the lower tier.

1B. U.S. Patent 5,505,034 - Remarks:

U.S. Patent 5,505,034 to Dueck '034 (hereinafter Dueck '034) discloses a block for forming a retaining wall that includes **“projecting means being laterally offset from the cavity and....having a rounded surface”** (Col. 4, lines 23-26, and Fig. 1). The rounded projecting means or “cylindrical extensions or knobs 18 are positioned on lower surface 14 to protrude into the open cavity 10 of an underlying block when the blocks are stacked atop each other to form a retaining wall” (Col. 3, lines 7-13, and Figs. 6-7).

Applicant's block includes no such projection **with a rounded surface**.

Applicant's claim 1 includes “two positioning wedges extending from said bottom surface, said positioning wedges including **flat forward surfaces**”.

The prosecution history of Dueck '034 reveals that the Examiner on 6/30/94 rejected all 15 claims of Dueck '034 primarily over Rossi U.S. Patent 4,964,761, Haener U.S. Patent 3,888,060, or Forsberg U.S. Patent 4,825,619. An amendment was filed on 12/29/94 that added **“having a rounded surface” to the projecting means**. See Attachment A for pages 1-11 of the amendment. Also, on page 6 it was stated that “Rossi's projection means have angled surfaces” and that “the interlocking configuration of Rossi would not accommodate rounded surfaces.” Figure 10 was added to show a section of wall where the projecting means 18 of upper tier blocks 26a and 26b are engageable against the internal walls of open cavity 10 of lower tier block 25a.

Dueck '034 further discloses “the projecting means being **laterally offset from the cavity**” (Col. 4, lines 23-24, and Fig. 1). As shown in Fig. 4, Applicant’s positioning wedges 52 are not laterally offset at all from the cavity, but rather the wedges 52 **extend all the way from the cavity to the side surface 32 of the block** (see Fig. 4). Applicant’s claim language includes “said positioning wedges extend laterally from said side interior wall of said block to said side surface of said block” (Claim 2 of current invention).

Applicant’s block further includes “each of said **wings extending substantially less than a plane tangent to said front corner and perpendicular to said front surface**” (element F, Claim 1, and Fig. 4). As shown in Fig. 4 of the current application, the stabilizing wings 48 extend substantially less than the plane (dotted line) tangent to the front corner and perpendicular to the front surface. Contrary to Applicant’s block, Dueck '034’s frangible extensions 28 clearly extend “beyond the side walls” (Col. 4, lines 52-53, and Fig. 1) and **clearly do not extend substantially less than a plane tangent to the front corner and perpendicular to the front surface** (see Fig. 1). Dueck '034’s extensions, as shown in Fig. 1, extend all the way to a plane tangent to the front corner and perpendicular to the front surface.

The fact that the extensions on Dueck '034’s block extend as far as they do lead to a significant disadvantage in forming a curved wall that is solved by the block of the current invention. Forming a curved wall with the block of the '034 patent requires the installer to break off two frangible extensions 28. The '034 patent discloses “Fig. 7 illustrates a retaining wall in which the blocks are arranged in an arcuate configuration. Rear wall portion 6 of the block includes frangible extensions 28 that extend beyond

sidewalls 8. Frangible extensions 28 can be broken off along pre-formed fault lines 29 so that each block is reduced to essentially an arcuate segment. Each block can then be rotated to a desired angle to form a curved retaining wall as shown in FIG. 7" (Col. 3, lines 41-48, and Fig. 7).

A disadvantage of the '034 patent is that the frangible extensions extend to a line perpendicular to the front face of the bloc, requiring the installer to break off the two frangible extensions when forming a curved wall. Including the frangible extensions decreases the coverage to weight ratio for a portion that eventually will be removed and discarded in the construction of a curved retaining wall, adding to wastage of material. Additionally, the top surface of a block according to the '034 patent is flat, therefore not allowing a block placed on top of a lower tier to be slid between adjacent cavities without first lifting the block to elevate the projecting means above the side walls of the blocks in the lower tier.

The retaining wall block of the present invention includes sharply diverging side walls and wings that extent substantially less than a plane tangent to the front corner and perpendicular to the front face of the block. This block geometry enables construction of either a straight or curved retaining wall without requiring any portion of the blocks to be broken away, thereby decreasing wastage and increasing the coverage to weight ratio of the blocks. The block of the present invention also includes channels (claim 5) formed in the top surface of the blocks, thereby allowing a block in a straight wall to be repositioned without requiring it to be lifted to clear the side walls of the blocks in the lower tier.

The block of the present invention therefore significantly simplifies construction of a retaining wall by decreasing the weight of the block for a given coverage area, by virtue of the channels in the top surface making it easier for the block to be repositioned, and by including non-frangible extensions that do not need to be broken off in order to form a curved wall.

For the reasons enumerated above, including 1) applicant's projecting means are not laterally offset from the cavity as in Dueck '034; 2) applicant's projecting means have flat forward surfaces rather than a rounded surface as in Dueck '034; 3) applicant's wings extending substantially less than a plane tangent to said front corner and perpendicular to said front surface whereas Dueck '034's wings extend all the way to the tangent plane; and 4) applicant's top surface includes a channel to allow blocks to be slid sideways without lifting whereas Dueck '034's block has a flat top surface and no channels; Applicant's block is not anticipated by Dueck '034.

2A. U.S. Patent 5,941,042 - Element-by-Element Analysis:**Table 2 – Element-by-Element Claim Analysis of Claim 1 in view of Dueck ‘042:**

Claim 1 Elements:	U. S. Patent 5,941,042 (Dueck ‘042)
F. each of said wings extending substantially less than a plane tangent to said front corner and perpendicular to said front surface;	Dueck’s frangible extensions 28 do not extend substantially less than a plane tangent to the front corner and perpendicular to the front surface (see Fig. 1). The frangible extensions appear to extend as far as (Fig. 1) or just slightly less (Fig. 3) than the plane tangent to the front corner and perpendicular to the front surface.
G. two positioning wedges extending from said bottom surface, said positioning wedges including flat forward surfaces ; and	There are no positioning wedges including flat forward faces. Dueck discloses “projecting means being laterally, outwardly, and rearwardly offset from said cavity front internal wall and having a rounded front surface ” (Col. 3, lines 18-22, and Fig. 1).
H. said flat forward surface of said positioning wedge being located nearer said front surface than is said inner surface of said front wall;	No. Dueck’s projecting means are “rearwardly offset from said cavity front internal wall”. Dueck discloses “projecting means integrally formed on said bottom surface proximate said front surface and being laterally offset from said cavity and rearwardly offset from the front of the cavity and having a rounded front surface” (Col. 1, lines 18-21). Therefore Dueck’s knobs 18 are positioned farther from the front surface than is the inner surface of the front wall (See Figs. 1 and 3).

2B. U.S. Patent 5,941,042 - Remarks:

U.S. Patent 5,941,042 to Dueck (hereinafter Dueck '042) discloses a block for forming a retaining wall that includes **“projecting means being laterally, outwardly, and rearwardly offset from said cavity front internal wall and having a rounded front surface”** (Col. 3, lines 18-22, and Fig. 1).

Dueck '042 therefore has many of the same limitations as the previous Dueck '034 reference. As has been explained thoroughly in the discussion above regarding Dueck '034, Applicant's block has projecting means that are **not laterally offset from the cavity front internal wall** and the **projecting means do not have a rounded front surface**. Furthermore, Applicant's projecting means (see Figs. 3 and 4) are **not rearwardly offset from the cavity front internal wall** but rather forwardly offset from the cavity front internal wall.

As compared to the block of Dueck '042, Applicant's block includes all the distinctive differences as given above for Dueck '034. Additionally, applicant's projecting means are not rearwardly offset from the cavity front internal wall. Applicant's block is therefore not anticipated by Dueck '042.

3A. U.S. Patent 4,909,010 - Element-by-Element Analysis:**Table 3 – Element-by-Element Claim Analysis of Claim 1 in view of Gravier:**

Claim 1 Elements:	U. S. Patent 4,909,010 (Gravier)
B. a central cavity extending vertically through said body and defining front, rear, and side walls, said walls having inner surfaces;	There are two central cavities and therefore two sets of front, rear, and side walls.
E. a stabilizing wing extending outwardly from each of said side walls adjacent said rear surface;	The block is rectangular, there are no outwardly extending wings.
F. each of said wings extending substantially less than a plane tangent to said front corner and perpendicular to said front surface;	There are no wings.
G. two positioning wedges extending from said bottom surface, said positioning wedges including flat forward surfaces; and	The bottom surface is flat (see Figs. 4 and 5). There are no wedges extending from the bottom surface of the block.
H. said flat forward surface of said positioning wedge being located nearer said front surface than is said inner surface of said front wall;	There is no positioning wedge.
I. whereby a plurality of said blocks are formed into a retaining wall by placing a lower tier of blocks with said blocks in said lower tier in contact at said front corners and forming an upper tier of blocks by placing said flat forward surfaces of said positioning wedges of said blocks of said upper tier in engagement with said inner surface of said front wall of one or more of said blocks in said lower tier.	There are no positioning wedges to engage the inner surface of the front wall of a block in a lower tier of blocks.

3B. U.S. Patent 4,909,010 - Remarks:

U.S. Patent 4,909,010 to Gravier (hereinafter Gravier) discloses a rectangular shaped block having two central cavities. There are no extending wings and no positioning wedges extending from the bottom surface.

Applicant's block is therefore not anticipated by Gravier.

4A. U.S. Patent 5,161,918 - Element-by-Element Analysis:**Table 4 – Element-by-Element Claim Analysis of Claim 1 in view of Hodel:**

Claim 1 Elements:	U. S. Patent 5,161,918 (Hodel)
E. a stabilizing wing extending outwardly from each of said side walls adjacent said rear surface;	There are no stabilizing wings disclosed by Hodel.
F. each of said wings extending substantially less than a plane tangent to said front corner and perpendicular to said front surface;	There are no stabilizing wings.
G. two positioning wedges extending from said bottom surface, said positioning wedges including flat forward surfaces; and	There are no positioning wedges extending from the bottom surface of Hodel's block.
H. said flat forward surface of said positioning wedge being located nearer said front surface than is said inner surface of said front wall;	There are no positioning wedges.
I. whereby a plurality of said blocks are formed into a retaining wall by placing a lower tier of blocks with said blocks in said lower tier in contact at said front corners and forming an upper tier of blocks by placing said flat forward surfaces of said positioning wedges of said blocks of said upper tier in engagement with said inner surface of said front wall of one or more of said blocks in said lower tier.	There are no positioning wedges integral with the blocks to assist in building a retaining wall. Hodel's blocks are "interlocked together by offset pins 26" (Col. 3, lines 23-24) which extend into "vertical through-holes 46" (Col. 3, lines 46-47 and Fig. 1), which "extend completely through the front corner portions of the block" (Col. 3, lines 47-48).

4B. U.S. Patent 5,161,918 - Remarks:

U.S. Patent 5,161,918 to Hodel (hereinafter Hodel) discloses a block that is “trapezoidal in plan view” (Abstract, lines 3-4). There are no stabilizing wings and no positioning wedges. Hodel’s blocks are positioned by separate pins 26 which fit into holes 46 (see Figs. 1 and 2) that are formed in the blocks. There are no positioning wedges integral with the blocks to assist in building a retaining wall. Hodel’s blocks are “interlocked together by offset pins 26” (Col. 3, lines 23-24) which extend into “vertical through-holes 46” (Col. 3, lines 46-47 and Fig. 1), which “extend completely through the front corner portions of the block” (Col. 3, lines 47-48).

Applicant’s block is not anticipated by Hodel.

5A. U.S. Patent 5,294,216 - Element-by-Element Analysis:**Table 5 – Element-by-Element Claim Analysis of Claim 1 in view of Sievert:**

Claim 1 Elements:	U. S. Patent 5,294,216 (Sievert)
B. a central cavity extending vertically through said body and defining front, rear, and side walls, said walls having inner surfaces;	There is no central cavity extending through the body. There is no cavity of any type.
D. said side walls diverging rearwardly from said front corner of said block;	Neither of Sievert's embodiments (Figs. 2 and 5) show side walls diverging from the front corners. For the side walls to diverge, the angle between the block's front surface and the side wall would have to be greater than 90°. Sievert discloses "the sidewall first part extend from the block front surface towards the back surface at an angle of no greater than ninety degrees in relationship to the block front surface" (Col. 4, lines 26-29).
E. a stabilizing wing extending outwardly from each of said side walls adjacent said rear surface;	There are no stabilizing wings.
F. each of said wings extending substantially less than a plane tangent to said front corner and perpendicular to said front surface;	There are no stabilizing wings.
G. two positioning wedges extending from said bottom surface, said positioning wedges including flat forward surfaces; and	Sievert does not disclose a pair of positioning wedges extending from the bottom surface. Sievert discloses a single "flange 40 spanning the width of the block back surface 24" (Col. 4, lines 32-33 and see Fig. 3).
H. said flat forward surface of said positioning wedge being located nearer said front surface than is said inner surface of said front wall;	There are no positioning wedges.

<p>I. whereby a plurality of said blocks are formed into a retaining wall by placing a lower tier of blocks with said blocks in said lower tier in contact at said front corners and forming an upper tier of blocks by placing said flat forward surfaces of said positioning wedges of said blocks of said upper tier in engagement with said inner surface of said front wall of one or more of said blocks in said lower tier.</p>	<p>There are no positioning wedges and, since there are no cavities in Sievert's block, no front wall having an inner surface.</p>
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5B. U.S. Patent 5,294,216 - Remarks:

U.S. Patent 5,294,216 to Sievert (hereinafter Sievert) discloses a block that has "an irregular trapezoidal shaped block body 20" (Col. 4, lines 11-12 and Fig. 1). There is no central cavity disclosed by Sievert (see Figs. 1 and 4).

Neither of Sievert's embodiments (Figs. 2 and 5) show side walls diverging from the front corners. For the side walls to diverge, the angle between the block's front surface and the side wall would have to be greater than 90°. Sievert discloses "the sidewall first part extend from the block front surface towards the back surface at an angle of no greater than ninety degrees in relationship to the block front surface" (Col. 4, lines 26-29).

Sievert's block has no stabilizing wings.

Furthermore Sievert does not disclose a pair of positioning wedges extending from the bottom surface. For positioning the block, Sievert discloses only a single "flange 40 spanning the width of the block back surface 24" (Col. 4, lines 32-33 and see Fig. 3).

Applicant's block is not anticipated by Sievert.

6A. U.S. Patent 5,484,236 - Element-by-Element Analysis:**Table 6 – Element-by-Element Claim Analysis of Claim 1 in view of Gravier:**

Claim 1 Elements:	U. S. Patent 5,484,236 (Gravier)
E. a stabilizing wing extending outwardly from each of said side walls adjacent said rear surface;	There are no outwardly extending wings disclosed by Gravier.
F. each of said wings extending substantially less than a plane tangent to said front corner and perpendicular to said front surface;	There are no wings disclosed by Gravier, nor any stipulation of the distance the wings would extend from a plane tangent to the front corner and perpendicular to the front surface.
G. two positioning wedges extending from said bottom surface, said positioning wedges including flat forward surfaces; and	There are no wedges extending from the bottom surface of Gravier's block. Gravier discloses "a laterally extending rectangular recess 48 extends thereunder" (Col. 5, lines 47-48) on the bottom surface of the block (see Fig. 8). There is nothing extending from the bottom surface of Gravier's block.
H. said flat forward surface of said positioning wedge being located nearer said front surface than is said inner surface of said front wall;	There is no positioning wedge extending from the bottom surface.
I. whereby a plurality of said blocks are formed into a retaining wall by placing a lower tier of blocks with said blocks in said lower tier in contact at said front corners and forming an upper tier of blocks by placing said flat forward surfaces of said positioning wedges of said blocks of said upper tier in engagement with said inner surface of said front wall of one or more of said blocks in said lower tier.	There are no positioning wedges in Gravier to engage the inner surface of the front wall of a block in a lower tier of blocks. As stated in claim element B above, Applicant's central cavity "extends vertically through the body and defines the front, rear, and side wall, said walls having inner surfaces". The vertical surface 54 of the blocks in Gravier's upper tier do not engage the inner surface of the front wall of the blocks in the lower tier (see Fig. 3) but rather engage the lip 34 that extends

	completely across the top surface of the block. There is nothing in Gravier disclosing or suggesting an extension from the bottom surface to extend within the cavity of the block in the lower tier and engage the front wall.
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6B. U.S. Patent 5,484,236 - Remarks:

U.S. Patent 5,484,236 to Gravier (hereinafter Gravier '236) discloses a block that may be "trapezoidal shaped" (Col. 2, line 57, and Fig. 8). Gravier '236 does not disclose outwardly extending wings (element E), let alone a limitation on the extension of the wings from a plane tangent to the front corner and perpendicular to the front surface (element F).

Gravier '236 does not disclose positioning wedges extending from the bottom surface (element G) and no relationship between the location of a flat forward surface of a positioning wedge with respect to the inner surface of the front wall (element H).

Additionally, there are no positioning wedges in Gravier '236 to engage the inner surface of the front wall of a block in a lower tier of blocks (element I). The vertical surface 54 of the blocks in the upper tier of Gravier '236 do not engage the inner surface of the front wall of the blocks in the lower tier (see Fig. 3) but rather engage the lip 34 that extends completely across the top surface of the block. There is nothing in Gravier '236 disclosing or suggesting an extension from the bottom surface to extend within the cavity of the block in the lower tier and engage the front wall. There is a fundamental

difference in the way the blocks of Gravier '236 engage each other as compared to the blocks of the present invention. With the lip 34 extending all the way across the top surface, and the vertical surface 54 extending all the way across the bottom surface (see Figs. 7 and 8), the vertical surface 54 of the block in the upper tier engages the lip 34 of the block in the lower tier at the ends of the vertical surface.

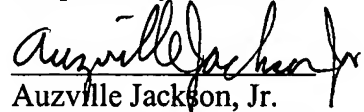
Applicant's block is therefore not anticipated by Gravier '236.

D. Conclusion:

It is believed that, as shown in the above analyses, the current invention is patentable over the known prior art. The current invention is not anticipated by any of the relevant references, nor is there any suggestion or motivation in the references to provide a block as claimed in the current invention, including the following elements: 1) two positioning wedges having flat forward surfaces; 2) wings extending substantially less than a plane tangent to the front corner and perpendicular to the front surface; 3) the flat forward surfaces of the positioning wedges located nearer the front surface than is the inner surface of the front wall; and 4) forming a retaining wall by placing flat forward surfaces of positioning wedges in engagement with the inner surfaces of the front walls of one or more blocks in a lower tier of blocks.

Applicant herein requests that the application be made special in order to lead to an early resolution of the patentability of the invention.

Respectfully submitted,

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